

REMARKS/ARGUMENTS

Claims 1-23 are active in the present application. Original independent Claims 1 and 6 have been amended to require that elements B1, B2 and B3 are different. Support for the amendment is found on page 5, lines 10-11; page 11, lines 16-21; page 13, last line through page 14, first line; and the Examples as tabulated at Tables 1-4. Claims 15-23 are new claims. Support for the new claims is found in the original claims. Claims 2-5 and 7-14 have been amended to remove multiple dependencies. No new matter is believed to have been added by this amendment.

REQUEST FOR RECONSIDERATION

Applicants thank Examiner Vijayakumar for the helpful and courteous discussion of February 10, 2004. During the discussion, the Examiner agreed that the prior art references applied by the Office do not disclose oxide ion conductors having six different metallic elements. The Examiner agreed that an oxide ion conductor containing six different metal elements is not anticipated by the prior art of record.

Claims 1 and 6 have been amended to require the presence of at least three different metal elements B1, B2, and B3. The oxide ion conductors of Claims 1 and 6 now contain at least 6 different elements Ln1, A, Ga, B1, B2 and B3 (oxygen (O) is also present). The prior art references relied upon by the Examiner (Hashimoto U.S. 6,287,716) nowhere disclose or describe an oxide ion conductor that must contain three elements B1, B2 and B3 as presently claimed which must be different.

The amendment to the claims obviates the rejections under 35 U.S.C. § 112, second paragraph.

Claims 1 and 6 were rejected under 35 U.S.C. § 102(b) in view of a publication to Ishihara (Chem. Mater. 1999, 11, 2081-2088); a publication to Keppeler (J. Australasian Ceramic Soc. 1998, 34 (1), pp. 106-111); Tas (J. Am. Ceram. Soc., 2000, 83 (12), pp. 2954-2960); Fujita (US 6,337,006) and Ishihara II (DE 19839382). Applicants traverse the rejection in view of the amendment to Claims 1 and 6 to require the inclusion of at least those elements B1, B2, B3 recited in the claim wherein the elements are different.

Ishihara discloses materials of formula such as  $\text{La}_{0.8}\text{Sr}_{0.2}\text{Ga}_{0.8}\text{Mg}_{0.115}\text{Co}_{0.085}\text{O}_3$  (see Abstract). Ishihara does not disclose materials of the formula  $\text{Ln1AGaB1B2B3O}$  as recited in amended independent Claims 1 and 6.

Keppeler is asserted by the Office to disclose materials of formula, for example  $\text{La}_{0.8}\text{Sr}_{0.2}\text{Ga}_{0.85-x}\text{Co}_x\text{Mg}_{0.15}\text{O}_{3-\Delta}$ . Keppeler however does not disclose materials of formula  $\text{Ln}_1\text{AGaB}_1\text{B}_2\text{B}_3\text{O}$  as recited in amended independent Claims 1 and 6.

Fujita is asserted by the Office to disclose materials of formula  $\text{La}_{1-x}\text{Sr}_x\text{Ga}_{0.8}\text{Mg}_{0.2-y}\text{Co}_y\text{O}_3$ . Fujita does not however disclose materials of formula  $\text{Ln}_1\text{AGaB}_1\text{B}_2\text{B}_3\text{O}$  as recited in amended independent Claims 1 and 6.

Tas is asserted by the Office to disclose materials such as  $\text{La}_{0.8}\text{Sr}_{0.2}\text{Ga}_{0.83}\text{Mg}_{0.17}\text{O}_{2.815}$  (see Abstract). Tas does not however disclose materials of formula  $\text{Ln}_1\text{AGaB}_1\text{B}_2\text{B}_3\text{O}$  as recited in amended independent Claims 1 and 6.

Ishihara II discloses materials of formulas such as  $\text{Ln}_{1-x}\text{A}_x\text{Ga}_{1-y-z}\text{B}_1\text{B}_2\text{O}_3$  (see Abstract). Ishihara II does not disclose materials of formula  $\text{Ln}_1\text{AGaB}_1\text{B}_2\text{B}_3\text{O}$  as recited in amended independent Claims 1 and 6.

Applicants submit that the prior art references relied upon by the Office to reject the present claims under 35 U.S.C. § 102(b) or §103(a) cannot anticipate or render obvious the presently claimed invention on the grounds that the prior art references do not disclose materials adhering to the formula recited in amended independent Claims 1 and 6.

The Office further rejected the claims in view of U.S. Patent Nos. 6,586,127; 6,635,376; 6,287,716; and 6,090,500 under the judicially created doctrine of obviousness-type double patenting.

Applicants traverse the rejection on the grounds that none of the patents relied upon by the Office disclose materials of formula  $\text{Ln}_1\text{AGaB}_1\text{B}_2\text{B}_3\text{O}$  as recited in amended independent Claims 1 and 6. Applicants respectfully request the withdrawal of the rejection under the judicially created of obviousness-type double patenting.

The form PTO-1449 submitted upon filing of the present Continuation application was returned with the Office Action of January 21, 2004. The form PTO-1449, providing

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U.S. 6,287,716, was signed and dated by the Examiner; however, the Examiner's initials do not appear next to the listing of the reference to acknowledge consideration of the reference in the examination of this application. Applicants respectfully request the Office provide a properly signed, dated and initialed form PTO-1449 indicating that U.S. 6,287,716 was considered in the examination of the above-identified application.

Applicants respectfully submit that the amendment to the claims places all now pending claims in condition for allowance. Applicants respectfully request the withdrawal of the rejection and the passage of all now pending claims to Issue.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
Norman F. Oblon



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Stefan U. Koschmieder, Ph.D.  
Registration No. 50,238

Customer Number

**22850**

Tel. (703) 413-3000  
Fax. (703) 413-2220  
(OSMMN 05/03)

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